

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 08-04

Introduced by Council President Boniface at the request of the County Executive

Legislative Day No. 08-02 Date January 15, 2008

AN ACT to provide the County Executive, or his designee, with the authorization to execute, on behalf of Harford County, Maryland, an Agreement of Sale with Norma Vest to purchase real property and improvements containing approximately 86.656 acres, more or less, known as the Vest property, located on the west side of Maryland Route 136; to pay the purchase price and interest as specified in the Agreement of Sale; and providing for and determining various matters in connection therewith.

By the Council, January 15, 2008

Introduced, read first time, ordered posted and public hearing scheduled

on: February 12, 2008

at: 6:30 p.m.

By Order: Barbara J. O'Connor, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on February 12, 2008 and concluded on February 12, 2008.

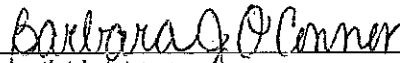
Barbara J. O'Connor, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

- 1 Section 2. And Be It Further Enacted that this Act shall take effect 60 calendar days from the
2 date it becomes law.

EFFECTIVE: April 21, 2008

*The Council Administrator does hereby certify that
fifteen (15) copies of this Bill are immediately available for
distribution to the public and the press.*



Council Administrator

HARFORD COUNTY BILL NO. 08-04

Brief Title Agreement of Sale - Vest Property

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

Barbara J. O'Connor
Council Administrator

Date February 12, 2008

ENROLLED

Billy Bonfante
Council President

Date February 12, 2008

BY THE COUNCIL

Read the third time.

Passed: LSD 08-04

Failed of Passage: _____

By Order

Barbara J. O'Connor
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 13th day of February, 2008 at 3:00 p.m.

Barbara J. O'Connor
Council Administrator



BY THE EXECUTIVE

David H. Craig
COUNTY EXECUTIVE

APPROVED: Date February 19, 2008

BY THE COUNCIL

This Bill No. 08-04 having been approved by the Executive and returned to the Council, becomes law on February 19, 2008.

EFFECTIVE DATE: April 21, 2008

Barbara J. O'Connor
Barbara J. O'Connor, Council Administrator

BILL NO. 08-04

WHEREAS, the County Executive proposes that Harford County, Maryland enter into an Agreement of Sale with Norma Vest, in substantially the form attached hereto, to enable the County to acquire real property and improvements (the Property) for \$1,400,000.00, of which \$700,000.00 will be paid at settlement and \$350,000.00 will be paid by the County on the first and second anniversary dates of settlement, and that he, or his designee, be given the authority to execute such agreement on behalf of Harford County, Maryland; and

WHEREAS, the purchase price for the Property is \$1,400,000, and interest shall be at the rate of five percent (5%) per annum; and

WHEREAS, the Property, which is located on the west side of Maryland Route 136, is being acquired for the purpose of constructing active recreation facilities such as baseball/softball diamonds, soccer/lacrosse fields and a Department of Public Works regional facility; and

WHEREAS, Sections 520 and 524 of the Charter of Harford County, Maryland require that all agreements and payments thereunder which would extend beyond the current fiscal year be authorized by legislative act.

NOW, THEREFORE,

Section 1. Be It Enacted By The County Council of Harford County, Maryland that the County Executive, or his designee, be, and is hereby, authorized to execute, on behalf of the County, the Agreement of Sale with Norma Vest providing for payment by Harford County, Maryland of the below-stated amount not to exceed:

Agreement.....\$1,400,000

and the Agreement of Sale shall provide for two payments of \$350,000.00 each on the anniversary dates of settlement of the Vest property at an interest rate of five percent (5%) per annum.

HARFORD COUNTY, MARYLAND

220 South Main Street
Bel Air, Maryland 21014

THIS AGREEMENT OF SALE ("Agreement"), made and executed in duplicate, this _____ day of _____, 2007, by and between, **NORMA VEST**, of the State of Virginia, sometimes hereinafter referred to as "Seller"; and **HARFORD COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland, sometimes hereinafter referred to as "Buyer".

WITNESSETH, that the Seller does hereby bargain and sell unto the Buyer, and the Buyer does hereby purchase from the Seller all of the property situate, lying and being in the Fifth Election District of Harford County, Maryland, located south of US Route 1 (Conowingo Road), west of MD Route 136 (Priestford Road), and east of Forge Hill Road, in Street, Maryland, described in and conveyed to Seller by a Deed dated September 15, 2000 and recorded among the Land Records of Harford County in Liber C.G.H. No. 3369, folio 503, subject to a life estate in Irene Choate, who departed this life on or about December 7, 2003, thereby vesting absolute fee simple title in the said property in the Seller; being further described as Parcel No. 1 as laid out, shown and designated on the Land Use Exhibit, dated June 28, 2006, prepared by Thompson & McCord Associates, LLC, a reduced size copy of which is attached hereto, incorporated herein by reference and intended to be made a part hereof, being also a part of Parcel 74 on State Tax Map 27, Tax Account Identifier No. 05-006821, containing 86.656 acres of land, more or less, the improvements thereon being known as 1153 Priestford Road and/or 3509 Conowingo Road (the "Property"), together with the improvements thereon, and all the rights and appurtenances thereto, including two (2) development rights, alleys, ways, water privileges, and advantages thereto belonging or in anywise appertaining. The Seller intends to market the remaining four (4) development rights prior to settlement. Any unsold development rights as of the date of settlement shall be conveyed to the Buyer at no additional cost. **The parties hereto agree and intend that the parcel of land lying on the northeast side of MD Route 136 (Priestford Road) being designated as Parcel No. 2, containing 4.694 acres of land, more or less, as laid out and shown on the aforesaid attached Land Use Exhibit, is not included in this Agreement of Sale; and Seller specifically saves and excepts said parcel of land from this Agreement. The improvements on this excluded Parcel No. 2 are known as 1153 Priestford Road.**

NOW THEREFORE, for and in consideration of the respective promises and the covenants as herein contained, and for other good and valuable consideration, the receipt and adequacy of all of which being hereby acknowledged, the parties intending to be legally bound, hereby promise, covenant and agree as follows:

The purchase price for the Property is **ONE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$1,400,000.00)** and shall be paid by Buyer to Seller in the following manner: a check in the amount of **SEVEN HUNDRED THOUSAND DOLLARS (\$700,000.00)**, or other payment in that amount acceptable to the settlement officer and Seller at the time of settlement which shall take place on or before **April 21, 2008**, or sooner if agreed to in writing by both parties to this Agreement; the balance of the purchase price shall be paid in the

following manner: two annual installments in the amount of **THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00)** each, payable on April 21, 2009 and April 21, 2010, together with simple interest thereon at the rate of five percent (5%), per annum by a County check to the Seller. Said settlement shall be held in the Harford County Procurement Department Conference Room, at 220 South Main Street, (third floor), Bel Air, Maryland 21014, or at such other place in Maryland as shall be mutually agreeable to the Seller and Buyer. **It is agreed between the parties hereto, that this Agreement is subject to approval by the Harford County Council and the Harford County Board of Estimates at its regularly scheduled Board meeting; and acceptance by Harford County, Maryland. In the event that the Harford County Council and the Harford County Board of Estimates does not approve this Agreement, it shall become null and void.**

This Agreement is contingent upon the Buyer receiving approval from the State of Maryland for funding of this purchase by the State Board of Public Works through Program Open Space Funding. If for any reason this contingency is not satisfied by April 21, 2008, then Buyer may elect to terminate this Agreement and make it null and void.

It is further understood and agreed between the parties hereto that the Buyer is purchasing the Property "AS IS" without any representations or warranties, including but not limited to the existing residential and agricultural improvements. **BUYER IS ADVISED OF THE RIGHT TO RECEIVE A "DISCLOSURE/DISCLAIMER" STATEMENT FROM SELLER (SECTION 10-702 REAL PROPERTY ARTICLE, ANNOTATED CODE OF MARYLAND)**

The deed to any tract of land purchased under a State grant from Program Open Space (POS) shall contain a clause setting forth the following restrictions on its use. It is understood and agreed that the land acquired under a State Grant from Program Open Space may not be converted to any use other than public outdoor recreation and open space use without the prior written approval of the Secretary of Natural Resources and the Secretary of the Department of Budget and Management and the Secretary of the Maryland Department of Planning. Any conversion in land use may be approved only after the local governing body replaces the land with land of at least equivalent area and of equal recreation or open space value. In order for any conversion of land acquired or developed under a State Grant from Program Open Space to occur, the appraised monetary value of land proposed for acquisition shall be equal to or greater than the appraised monetary value of the land to be converted. The Secretaries of Natural Resources, Planning, and Budget and Management, in their sole discretion, shall determine the relative recreation and open space value of the properties, considering the fair market value, usefulness, quality and location of the properties and/or facilities. This clause shall be included in the deed conveying the Property to the Buyer.

And upon payment of the purchase price, a fee simple deed for the Property containing covenants of special warranty and further assurances shall be executed at the Buyer's expense by the Seller, which shall convey the Property by good and merchantable title to the Buyer, free of liens and encumbrances; but subject to use and occupancy restrictions of public record that are generally applicable to properties in the immediate neighborhood or the subdivision in which the

property is located, publicly recorded easements for public utilities and any other easements that may be observed by an inspection of the Property.

Seller authorizes Buyer, its employees, agents or contractors to enter the Property, after reasonable notice, to perform an environmental audit ("Audit"). The Audit, which shall be performed by a qualified environmental consultant, shall be for the purpose of detecting hazardous substances and shall be conducted at Buyer's expense. Seller agrees to cooperate reasonably with the Audit by providing access to the Property and inspection of all documents regarding the Property and compliance with the Environmental Protection Agency or State environmental standards. Also, Buyer may conduct ground water and soil sampling of the Property after reasonable notice. Upon completion of the testing, if any, Buyer agrees to restore the area disturbed by testing to its original condition. It is understood and agreed that the written report of the Audit shall be completed and submitted to the Seller's agent not later than October 31, 2007.

The term "Hazardous Substances", as used in this Agreement shall mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the removal of which is required or the use of which is restricted, prohibited or penalized by any "Environmental Law", which term shall mean any federal, State or local law or ordinance relating to pollution or protection of the environment. Seller hereby agrees that (i) after the date of this Agreement, no activity will be conducted on the premises by Seller, or to Seller's knowledge, by any other person, that will produce any Hazardous Substance; (ii) the premises will not be used in any manner for the storage of any Hazardous Substances by Seller, or to Seller's knowledge, by any other person; (iii) no portion of the premises will be used as a landfill or a dump by Seller, or to Seller's knowledge, by any other person; (iv) Seller will not install any underground tanks of any type; and (v) Seller will not knowingly allow any surface or subsurface conditions to exist or come into existence that constitute, or with the passage of time may constitute, a public or private nuisance.

If such Audit, inspection, or testing reveals any condition on the Property that is unsatisfactory to Buyer in its sole and exclusive determination, Buyer shall give notice to Seller on or before fifteen (15) days from the date of the inspection. Seller, at Seller's option, may remedy such condition within twenty (20) days.

On Seller's failure to take remedial action as aforesaid, Buyer, at its sole option, may either extend this Agreement of Sale for a reasonable period of time, to be determined by Buyer, to allow Seller to remedy such hazardous situation, waive such defects and proceed to closing under this agreement, or terminate and rescind the Agreement.

The Property shall be held at the sole risk of Seller until legal title has passed to Buyer, and Seller assumes all loss or damage to the property until settlement. At the settlement, Seller shall deliver possession of the Property in substantially the same condition as existed on the date this Agreement is fully executed. So long as this Agreement is in full force and effect, Seller shall not cause or permit any new lien or encumbrance on the Property.

Taxes and other public charges against the premises shall be apportioned as of the date of settlement, at which time possession shall be given; and the said parties hereto hereby bind themselves, their successors and assigns, for the faithful performance of this Agreement. Cost of all transfer taxes and recordation taxes required by law shall be the responsibility of the Buyer. Buyer acknowledges, if applicable, that it has been notified by Seller that the Property has been assessed for farm or agriculture use under the provisions of Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland and that the Property being transferred may be subject to Agricultural Land Transfer Tax imposed by Sections 13-301 *et seq* of the Tax-Property Article of the Annotated Code of Maryland. Buyer shall pay any Agricultural Transfer Tax which may be payable with respect to the Property.

With respect to Lead-Based Paint Hazards: Section 1018, of the Residential Lead-Based Paint Hazard Reduction Act of 1992, requires the disclosure of certain information regarding lead-based paint hazards in connection with the sale or lease of residential real property. Unless, otherwise exempt, the Act applies only to houses constructed prior to 1978. A Landlord of pre-1978 housing is required to disclose to the Buyer, based upon actual knowledge, all known lead-based paint hazards in the Property and provide the Buyer with any available reports in the Seller's possession relating to lead-based paint, or lead-based paint hazards applicable to the Property.

Seller represents and warrants to the Buyer, intending that it rely upon such warranty and representation, that the Property: _____ was constructed prior to 1978; or _____ was not constructed prior to 1978; or _____ the date of construction is uncertain; or _____ Seller and Buyer mutually agree that the requirements of the Act do not apply to the sale of the Property; and _____ Buyer acknowledges that it understands the implications of possible existing lead-based paint on the Property based on the information provided in this section and will take no action toward the Seller regarding the removal of lead-based paint existing on the Property, if any.

Buyer and Seller are required and agree to make full settlement in accordance with the terms of this Agreement and acknowledge that failure to do so constitutes a breach hereof. If Seller fails to make full settlement or is in default due to Seller's failure to comply with the terms, covenants and conditions of this Agreement, Buyer shall be entitled to pursue such rights and remedies as may be available, at law or in equity, including, without limitation, an action for specific performance of this Agreement of Sale and/or monetary damages.

Buyer warrants and represents to Seller that it has not contracted with a broker, agent or finder who is or may be entitled to a commission on account of this Agreement of Sale. Buyer agrees to hereby defend, indemnify, save and hold the Seller harmless from any claim, liability, commission, cost, or fee which may be payable to any broker, agent or finder with whom the Buyer has dealt in connection with this Agreement. The terms of this paragraph shall survive closing.

Seller represents and warrants that the Property is not subject to any lease(s) or license(s), except for a residential lease and an agricultural lease. It is agreed between the parties hereto that Seller shall collect all residential rents through and including the date of settlement. Seller shall

provide written notice to all tenants to terminate all existing leases. The agricultural lease shall terminate as of December 31, 2007; and all crops shall be removed from the Property as of that date. Agricultural Lease payment shall be collected by Seller, without adjustment through December 31, 2007. ■

All notices and/or requests required pursuant to this Agreement shall be in writing and shall be deemed to have been properly delivered if sent by certified mail, postage prepaid and addressed as follows:

To Seller: Norma Vest
c/o Aimee C. Oneill
O'Neill Enterprises
P.O. Box 394
Forest Hill, MD 21050

To Buyer: Deborah L. Henderson, Director
Department of Procurement
Harford County, Maryland
220 South Main Street
Bel Air, Maryland 21014

With a copy to: Richard G. Herbig
Senior Assistant County Attorney
Harford County, Maryland
220 South Main Street
Bel Air, Maryland 21014

This shall be the final and entire Agreement between the parties hereto and neither they nor their Agents shall be bound by any terms, conditions or representations not herein written. It is further agreed between the parties hereto that this Agreement may be executed in counterparts, each of which when considered together shall constitute the original Agreement. The parties hereto further agree that this Agreement offer shall be deemed validly executed and delivered by a party if a party executes this Agreement and delivers a copy of the executed Agreement to the other parties by electronic delivery by email, telefax, or telecopier transmittal.

Time is of the essence of this Agreement.

WITNESS, in duplicate, the hands and seals of the parties hereto, the day and year first above written.

WITNESS/ATTEST:

SELLER:

Norma Vest (SEAL)

BUYER:

HARFORD COUNTY, MARYLAND

By: _____ (SEAL)

Deborah L. Henderson, Director
Department of Procurement/
Secretary, Board of Estimates

Approved as to form and legal
sufficiency this _____ day of
_____, 2007.

Approved this _____ day of
_____, 2007.

Richard G. Herbig
Senior Assistant County Attorney

Joseph E. Pfaff, Director
Department of Parks & Recreation

Approved as to financial sufficiency
this _____ day of _____, 2007.

Reviewed and concur, this _____ day
of _____, 2007.

John R. Scotten, Jr., Treasurer

Robert B. Cooper, Director
Department of Public Works